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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,070	03/03/2004	William Steidle	WIESNER 3.0-007	4216
7590	07/21/2005		EXAMINER	IZAGUIRRE, ISMAEL
EZRA SUTTON, PA PLAZA 9 Building Suite 201 900 ROUTE 9 North Woodbridge, NJ 07095			ART UNIT	PAPER NUMBER
			3765	
DATE MAILED: 07/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/792,070	STEIDLE, WILLIAM	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ismael Izaguirre	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 03 March 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-9 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_ .

**DETAILED ACTION**

**SPECIFICATION**

***Informalities***

On page 1, line 19 of the specification, the patent number "2,677,004" to Sanson should be replaced by "2,667,004". This should be corrected.

**CLAIMS**

***Summary***

Claim 1 is the independent claim under consideration in this Office Action.

Claims 2-9 are the dependent claims under consideration in this Office Action.

***Claim Rejections - 35 U.S.C. § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to the claim, lines 3, the words "molding said from latex" are unclear.

There seems to be missing text.

***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 5 are rejected under 35 U.S.C. § 102(b) as being anticipated by Rosen (3,226,849).

Rosen teaches a mask slipper-sock (column 1, line 51) foot covering and describes the method of making such an article of apparel. Rosen teaches forming the slipper-sock as having a leg engaging, ankle engaging and foot-engaging portion. The mask is formed of a plastic (column 1, line 66) and/or fiber (or fabric) and comprises an inner layer of foam filler material. The mask is attached to the outer surface of the foot-engaging surface by stitching the mask thereon.

#### ***Claim Rejections - 35 U.S.C. § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosen in view of Ogden (5,708,985).

Rosen discloses the invention substantially as claimed. See above for specific explanations of the structural details of this document. Briefly, Rosen teaches forming the slipper-sock as having a leg engaging, ankle engaging and foot-engaging portion.

However, Rosen does not specifically suggest the slipper-sock as being formed of cotton or being milled to be available in different lengths.

Ogden teaches a sock having a leg-engaging portion, an ankle engaging portion and a foot engaging portion and comprising cotton as a material used in the construction of the sock (column 5, line 10). Further, Ogden teaches that socks are available in a wide variety of designs such as for active wear, sports, walking, hiking or other leisure activities (column 1, lines 10-17). These different types of socks are designed for specific activities and are milled in different heights depending on the sport and aesthetics involved with the sport.

It would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to construct the slipper-sock of Rosen as including a cotton sock structure available as milled in different heights along the leg, knee and ankle. Providing such a height differences would allow the proper covering of the leg or ankle of the user and extend the throat and neck area of the puppet mask character thus further hiding a child's arm and enhancing the play factor.

Claims 3 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosen in view of Harrison (6,241,930).

Rosen discloses the invention substantially as claimed. See above for specific explanations of the structural details of this document. Briefly, Rosen teaches a mask slipper-sock foot covering and describes the method of making such an article of apparel. Rosen teaches forming the slipper-sock as having a leg engaging, ankle engaging and foot-engaging portion. The mask is formed of a plastic (column 1, line 66)

and/or fiber (or fabric) and comprises an inner layer of foam filler material. However, Rosen does not specifically suggest portions of the character mask as being formed of latex molded by an injection molding apparatus.

Harrison teaches a garment for wearing and including a decorative portion thereon provided for aesthetic reasons and where the decorative portion can be formed of a rubber material (column 2, line 7) and there further, the decoration is formed by an injection molding apparatus (figure 3 or column 1, line 17).

It would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to construct the slipper-sock of Rosen as including a portion of the mask as including a plastic formed by injection molding. Providing such a mask would allow the slipper-sock character to retain its shape for a longer period of time.

Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosen in view of Boersema (6,385,779).

Rosen discloses the invention substantially as claimed. See above for specific explanations of the structural details of this document. Briefly, Rosen teaches a mask slipper-sock foot covering and describes the method of making such an article of apparel. Rosen teaches forming the slipper-sock as having a leg engaging, ankle engaging and foot-engaging portion. The mask is formed of a plastic and/or fiber and comprises an inner layer of foam filler material. The mask is usable as a slipper-sock or as a hand puppet. The character may include an amusing animal head having a mouth where the mouth is articulated as if to talk. Further, the mouth is hinged so as to form a sole 8 whereupon a child's foot engaged a floor. Rosen teaches the sole formed of a

“usual wearing surface”. However, Rosen does not specifically suggest providing the sole or bottom of the slipper-sock as including a non-skid sole pad layer.

Boersema teaches a sock for a child and teaches the sole or bottom portion as including anti-skid layer portions 112, 113 for assuring a “grip” on the floor as the child walks or crawls thereon.

It would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to construct the slipper-sock of Rosen as including a mouth portion or sole part of the slipper-sock of the mask as including gripping means in the form of a non-skid sole pad layer. Providing such would enhance the “mouth” of the character animal when used as a puppet in that it can form ridges such as those found on the palate and wherein providing such would enhance the grip on the floor by the child's foot when work as a slipper-sock.

Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosen in view of Anderson (4,776,800).

Rosen discloses the invention substantially as claimed. See above for specific explanations of the structural details of this document. Briefly, Rosen teaches a mask slipper-sock foot covering and describes the method of making such an article of apparel. Rosen teaches forming the slipper-sock as having a leg engaging, ankle engaging and foot-engaging portion. The mask is usable as a slipper-sock or as a hand puppet and is formed of a plastic and/or fiber and comprises an inner layer of foam filler material sandwiched between the foot-engaging portion and an outer fabric covering.

However, Rosen does not specifically suggest the filler material as comprising a polyester fill material.

Anderson teaches wearing apparel for children having simulated play accessories. The accessories which can comprise a holster or microphone and wherein the play items further comprise polyester fill material (from column 2, lines 44-46).

It would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to construct the slipper-sock of Rosen as including a fill material of polyester within the character puppet. Providing a polyester fill material would extend the "life" of the puppet since polyester is a strong material enabling the child to use the slipper-sock over and over for a long period of time.

Claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosen in view of Ellingson (6,216,279).

Rosen discloses the invention substantially as claimed. See above for specific explanations of the structural details of this document. Briefly, Rosen teaches forming the slipper-sock as having a leg engaging, ankle engaging and foot-engaging portion. Rosen teaches a decorative mask sewingly attached to the slipper sock and teaches this on the upper part of the foot-engaging portion. However, Rosen does not specifically suggest the slipper-sock as including the decoration being placeable on the ankle portion or the leg-engaging portion.

Ellingson teaches a sock having a leg-engaging portion, an ankle engaging portion and a foot engaging portion and comprises decorative attachments to the sock on the leg engaging portion 112 and the ankle engaging portion 115.

It would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to construct the slipper-sock of Rosen as including a decorative character mask placeable on the ankle or leg engaging portions. Providing such an option would allow different play options and the wearing of the slipper-sock with other garments or portions of garments.

#### ***PERTINENT CITATIONS***

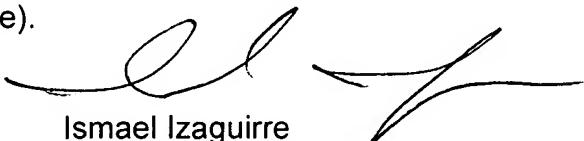
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fox illustrates a garment including removably attachable molded latex decorations thereon. Tann illustrates a slipper-sock including an attached character head on the sock. Cardwell illustrates a character mask on a sock. Devereux-Batchelor et al. Illustrate an infant slipper-sock including decorative animal portions. Daly illustrates a sock including decorative portions forming part of the game. Adeli illustrates decorative attachments for use with a sock.

#### ***INQUIRIES***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Izaguirre whose telephone number is (571) 272-4987. The examiner can normally be reached on M-F (8:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ismael Izaguirre  
Primary Examiner  
Art Unit 3765

II  
7/13/05